

APPLICANTS' INTERVIEW SUMMARY RECORD

Applicants' attorney, Michael Muczynski (Reg. No. 48,642), held a telephonic interview with examiner Yunsoo Kim on July 18, 2006.

The undersigned attorney phoned examiner Kim to seek clarification regarding the examiner's interview summary bearing mail date June 30, 2006. In particular, the undersigned attorney understood that the entire § 103 rejection (as to all claims) would be withdrawn, not simply that the finality of the rejection would be withdrawn as expressed in the examiner's interview summary (see Applicants' Interview Summary Record dated June 27, 2006).

Examiner Kim confirmed that the entire § 103 rejection was withdrawn and that claims 6-10 and 31-34 will be rejoined, but that in an allowance conference with the examiner's SPE, several alleged deficiencies under § 112, ¶ 2, were identified. The examiner stated that unless agreement could be reached on the § 112, ¶ 2 issues, then a new official action would be issued presenting rejections under § 112, ¶ 2.

Regarding claim 1, the examiner proposed amending subparagraph (e) to recite "consisting essentially of" with respect to subparagraphs (i) and (ii), thus partially closing the scope of the claim. The examiner gave no specific reason for the proposed change. The examiner also stated that the Patent Office's position was that the product element of the claim is recited in product-by-process form and thus is not limited to any particular method of production. It is not clear to applicants what the basis is for any alleged deficiency in the claim. The specification discloses the use of surfactant compositions including all three elements in alternatives (i) and (ii): cellulose ethers, nonionic surfactants, and PEO-PPO-PEO triblock copolymers. See, for example Table 3 on page 33. The applicants did not and do not agree with the proposed change.

The examiner proposed amending subparagraph (B) in claim 1 to recite two different cations. The applicants agreed to the change, and the change is reflected in the amendment to claim 1 above.

The examiner proposed amending several claims (*e.g.*, 3, 4, 14, 16, 24, 27, and 29) to change the "and mixtures thereof" alternative in the Markush group to the singular

form. The applicants did not agree to the proposed amendment. The proposed amendment would appear to have the effect of narrowing the various Markush groups to only of the recited elements in each group and a mixture of all of the elements in each group. The claim language currently used is sanctioned by, and indeed recommended by, the Court of Appeals for the Federal Circuit in situations such as this where inclusion of combinations of one or more of the Markush group alternatives is intended. See, for example Abbott Labs. v. Baxter Pharm. Prods., 02-1400 (Fed. Cir. July 3, 2003) a copy of which is enclosed herewith, at page 8.

The examiner also stated that claims 47, 62, 63, 65, 69, 72, 74, and 77, depending from new independent claim 44 filed with this divisional application lack antecedent basis. The foregoing amendments obviate the antecedent basis issues.

The examiner proposed cancellation of claims 44-78 because they allegedly have the same scope as claims 1-34. The applicants respectfully disagreed with the proposed amendment.